

LAND AT LEICESTER ROAD, WANSTEAD

**FINAL SUBMISSIONS
ON BEHALF OF THE APPELLANT**

1. These appeals must be determined in accordance with the development plan unless material considerations indicate otherwise. S38(6) Planning and Compensation Act 2004. In addition, Madam, in determining these appeals you are required to have regard to the desirability of preserving or enhancing the character and appearance of the Wanstead Grove Conservation Area. S72 Planning (Listed Buildings and Conservation Areas) Act 1990.
2. The only policies in issue raised by the Grounds of Refusal on both Schemes 2 and 3 are BD1 and E3 of the Borough Wide Policies DPD and in addition SP3 of the Core Strategy DPD in respect of Scheme 3. It is agreed that the only criteria in issue in respect of either Scheme under Policy BD1 are 1-4 and in respect of Scheme 3 alone only paragraphs (a) and (d) of Policy SP3 are at issue (SoCG pca 5.12, 5.16).
3. The single Ground of Refusal in respect of each scheme makes only specific reference to Blocks B and C. In the case of Scheme 2 it is alleged:
 - (i) that the design of the development, but particularly Blocks B and C, is out of keeping with the Conservation Area;
 - (ii) blocks B and C present an incoherent appearance to Nutter Lane; and

(iii) blocks B and C are incongruous with the Arts & Crafts cottages (Roding Cottages)

and therefore contrary to the policies E3 and BD1.

4. In respect of Scheme 3 the Ground of Refusal again alleges that:

(i) the design of the development, particularly Blocks B and C, is out of keeping with the CA; and

(ii) that the design and height of Blocks B and C would be harmful to the setting of the locally listed Arts & Craft Cottages and the Conservation Area, and therefore contrary to policies E3, BD1 and SP3.

5. It is notable that notwithstanding the requirement within Policy BD1 for development to be of a "building style, massing, scale, density and design appropriate to the locality", design is the only specific characteristic referred to in either Ground of

Refusal and that is only particularised in respect of Blocks B and C.

FROM THIS IT IS APPARENT THAT CONFLICT WITH BD1 IN REFUSAL "DESIGN" CANNOT MEAN SCALE + MASSING AS BD1 SEPARATELY DEFINES THESE + DENSITY

6. Further in respect of Scheme 3 the only additional offending characteristic identified is the height of Blocks B and C relative to adjacent Roding Cottages.

7. One looks in vain to the Council's Rule 6 statement for further elaboration of the Grounds of Refusal in each case and certainly there is no identification of any specific aspect of any part of either development other than Blocks B and C which is unacceptable.

IT DOES NOT FOLLOW THAT REFUSAL DOES NOT COVER UNMENTIONED ELEMENTS, THEREFORE, OTHER ASPECTS WOULD NOT EQUALLY APPLY TO SCHEMES 2 & 3

8. From discussions with officers of the Council (CH Apps 3, 16, 17) the Appellant had been told that no issue arose in respect of Block A or the houses in either scheme and this was confirmed in a meeting to agree the content of the SoCG which was not expressed to be privileged in any way. The proofs of evidence in fact produced on behalf of the Council do criticise aspects of Block A and the houses but it has not been explained how this has come to represent part of the Council's case arising from the Grounds of Refusal. Rather it is simply asserted that the Council's witnesses find the aspects of the developments identified in their evidence to be at issue and therefore that reflects the concerns expressed in the Grounds of Refusal.

IN LBR FINAL Pt vi) NO MENTION OF HOUSES

9. However that submission is flawed for the following reasons:

- (i) The Council could easily have specified that Block A and the houses were unacceptable in specific policy terms if that was the intention, but did not do so.
- (ii) The Council is required by the Rules and regulations to be precise and specific in its Grounds of Refusal, rather than vague and ambiguous.
- (iii) The word "particularly" employed in both Grounds of Refusal gives no hint of what, if any, other aspect of each development was unacceptable and in what way, let alone specifying Block A and/or the houses and/or some other aspect of the layout.
- (iv) In consequence, it is no more than conjecture to assert that the evidence in relation to Block A and the houses was the subject of the unparticularised element of the Grounds of Refusal. There is no evidence which substantiates the claim that this is what each Ground of Refusal was intended to mean. No member of the determining committee has been called to give evidence in support of this claim and explain the committee's intentions. Further, there is no evidence which

identifies what other aspects of the development apart from Blocks B and C made the development design as a whole unacceptable.

10. The conclusion which ought to be drawn from the above is that no weight ought to be attached to the evidence adduced on behalf of the Council concerning Block A or the houses as representing the Council's case as disclosed by the Grounds of Refusal. The Council's case cannot be simply whatever is included within the proofs of evidence at the whim of a witness or as represented by Counsel without a substantiated connection to the grounds upon which permission has been refused. That is simply seeking to make bricks without straw. If it is unclear what the Grounds of Refusal meant in full and no evidence can be^{or} adduced which establishes clearly what was meant, (by reference to a committee report or consultation replies for example) it is not open to Council's witnesses or advocate to assert that it means whatever the witnesses called on the Council's behalf include in their proofs. There is therefore an all important missing link between the terms of the Grounds of Refusal and the evidence in the form of a credible and verifiable explanation which would elucidate the meaning and provide clarification of any objection beyond Blocks B and C. *IT IS NOT FOR WITNESSES OR COUNSEL TO REWRITE REFUSAL WORDING, OR INTERPRETE THEM AS THEY SEE FIT, OR TO PROVIDE EXTRA EVIDENCE TO SUPPORT THEIR REINTERPETATION.*
11. The Council has raised no objection to the density of the development by reference to Policy BD3. Although Algar sought to introduce a density argument which amounts to no more than an assertion of over-development, he did so without any reference to an objective standard or measure by which this could be judged. Algar has not identified any lesser amount of development which would be satisfactory in his terms. In fact this point is no more than a spurious attempt to keep matters in issue which have long since been resolved and to seek to broaden the Council's case beyond the only apparent issue

of the appearance of Blocks B and C and their relationship to the locally listed block of houses in Nutter Lane.

12. In effect the single issue which arises in each appeal on the basis of the relevant policy, statutory and procedural considerations (arising from the Grounds of Refusal) is whether either Scheme 2 or 3, if implemented would harm the character or appearance of the Wanstead Grove Conservation and whether that harm means that planning permission ought to be refused. The test of “harm” arises from judicial consideration of the meaning of “to preserve or enhance” (South Lakeland). In other words it is not necessary for a development positively to improve the character and appearance of a Conservation Area as a whole, simply that it does not harm it, when considering the desirability of preserving or enhancing its character or appearance.

13. Therefore, even if some aspect of a development were thought to be in itself less than what might otherwise be achieved and to have some adverse impact in the context of its immediate surroundings, it would not follow that planning permission ought to be refused if the character and appearance of the Conservation Area as a whole is judged not to be materially harmed. This, then, is the overall effect of considering the statutory requirement of having regard to the desirability of preserving or enhancing the character and appearance of the Conservation Area when forming a judgment on the issue of whether that character and appearance will be harmed. So one might expect to find in a decision letter that some aspect of the development was of concern, but was not so significant as to justify the refusal of planning permission for the development as a whole. I hasten to add that the Appellant’s case is that both Schemes 2 and 3 preserve

or enhance the Conservation Area and therefore do not harm its character and appearance.

14. As to the identity of the Conservation Area's character, that is somewhat elusive. You are not assisted by the absence of an adopted Statement or Character Appraisal by the Council to accompany designation. The only document (not even included in its Rule 6 Statement) relied upon by the Council is what claims to be a final draft Character Appraisal of an area which does not coincide with the boundaries of the designated Conservation Area although there is substantial overlap. However the conclusion of that inchoate work was that not all of the area now designated was worthy of inclusion in a Conservation Area, and even those findings are undermined by a reported change of mind on the part of the Consultants who prepared it, although no documentation has been produced to verify this state of affairs or the rationale which is said to underpin it. That rationale appeared to turn upon the strength of public feeling rather than any technical conservation consideration. (LPA App 8 paras 6.1 – 6.6).
15. The relevance of the draft Character Appraisal is further diminished by the clear intention of the Council not to complete it in its present form but to draw on it for the purposes of preparing a proper Conservation Area Appraisal, even though the Conservation Studio is no longer retained by the Council, has not been approached as to the use of its material and has not been called to give evidence at this Inquiry to interpret the findings of the draft appraisal so far as relevant to these appeals proposals.
16. Having said all that, there is agreement between the parties that it is the very diversity and variety of styles of architecture and design over the period during which

development has taken place in the Conservation Area which gives it any unifying
NB NO ACKNOWLEDGEMENT BY LBR
identity. ^ That variety of architectural style covers a period from late 19th to 21st

centuries. However, it must be harder to cause identifiable harm to a Conservation

Area whose character has not been specifically identified and rationalised. + MORE
DIFFICULT WHEN QUALITY OF CA BEEN DILUTED BY INCLUSION OF
AREAS RECOMMENDED FOR EXCLUSION BY CONSULTANTS. IE LOWERED THE BAR

17. Against that background and in spite of the unsatisfactory nature of the Council's evidence, we can rely on certain clear concessions in the evidence of Algar and Williams.

18. Algar accepted the following in x, xx and Rx:

- (i) he had less concern with both Schemes 2 and 3 if the siting of the Blocks B and C were "slightly different";
- (ii) he did not personally object to the Art Deco design approach to Blocks B and C in Scheme 2;
- (iii) he had no problem with the contrast in design terms between Blocks B and C in Scheme 2 and the Arts and Craft Roding Cottages, apart from the flat roofs;
- (iv) he was not saying that blocks of flats in themselves detracted from the Conservation Area's character and appearance;
- (v) other parts of the Conservation Area had been developed in estate form;
- (vi) even though he would like to see the site developed as though each part was developed at a different time, this would be untrue and amount to pastiche. (In fact Miele pointed out the distinctiveness between the design of the different elements of the proposals in any event);
- (vii) he acknowledged there was a difference between his concerns and the Council's case because the Council's Grounds of Refusal were narrower than his view;

- (viii) a rather longer reason for refusal had been drafted in each case but the decision had been taken to narrow down the reasons for refusal;
- (ix) he thought that the Appellant would be focusing its arguments on the detailed design of the “units”, not the size and density; and
- (x) the Shrubberies were now of more relevance as a point of reference than in relation to Scheme 1 because of their inclusion in the Conservation Area. Therefore that type of building could be potentially used as a design influence for the appeal site.

19. If nothing else, Algar’s views make it plain that his evidence as a whole is quite simply unreliable as a reflection of the issues raised by the Grounds of Refusal. He goes beyond that. Of course there is something else as well, namely the fact that his evidence identifies the extremely narrow base upon which the Council’s objections reflected in the Grounds of refusal are based.

20. One is not comforted by the fact that Algar admitted that he and his fellow conservation and urban design (“C&UD”) colleagues relied upon the draft Character Appraisal as a development management/control document without any Council resolution to that effect and even though this was unknown to Appellants, had not been adopted by the Council let alone finalised and had not been published for public consumption. So Algar’s views are as much influenced by ~~upon~~ unauthorised, incomplete reference material as by his own views which are wider than those of the Council’s case. That is not a sound or reasonable base upon which to object to the grant of planning permission. Indeed it is incomprehensible in these circumstances why Algar believes that ‘significant’ weight should be attached to the draft Character Appraisal.

21. Williams states in her proof that “the Conservation Area comprises a number of architectural styles” including those with Art Deco and Arts and Craft influence (p4 para 3.1.1 and xx). + NO OVERALL CHARACTER.
22. .She agreed that the depths of Blocks B and C in Scheme 2 varied between 13.25-16m (to curved front feature) (para 4.4.2) compared with 19m of the comparable Block A in Scheme 1 (CH App 15 p66 Officer Report). At top floor level the depth reduced further to 11.5m and the width reduced to between 15.7m and 15.15m. In respect of Scheme 3 the depth of Block B rose from 12.2m to 14.9m at the front bays and 15.8m width. Block C had the same width and its depth similarly rose from 12.2m to 13.4m at the front bays, in comparison with the same 19m depth of Scheme 1, Block A. Inexplicably, Williams admitted that she had omitted to make any of these comparisons between the dimensions of Block A in Scheme 1 and Blocks B and C in Schemes 2 and 3 even though they were all entirely favourable to the Appellant. The degree of difference in scale between the scenarios of the different schemes is abundantly clear from a consideration of these dimensions. One would have expected these comparisons to be made given the reliance placed on the Scheme 1 decision letter. Plainly this must make the relationship of Block C in the case of Schemes 2 and 3 to Roding Cottages more acceptable than Block A’s relationship in Scheme 1 given the respective distance of 13m in the latter case and 11.9m and 13.1m respectively in the former (para 4.3.1). In fact Williams admitted that she was not suggesting that there needed to be greater separation between Block C and Roding Cottages in either Scheme 2 or 3.
RODING COTTAGES WOULD STILL COME TO THE FORE

23. She also accepted the view of the planning officers (CH App 15 p67) that the Chepstow site had always been atypical in its surroundings and was not stylistically consistent with its immediate surroundings. *THEFORE NEW DEVELOPMENT COULD/SHOULD BE DIFFERENT*
24. She accepted in relation to siting that the footprints of Blocks B and C could be at obtuse angles and that in terms of separation it was relevant to look at the degree of separation between buildings elsewhere in the Conservation Area such as between the semi-detached houses and Roding Cottages (where not just a garage sits in the wider gap but a more substantial part of the dwelling). However again Williams had made no such comparison in her evidence. *WOOD SAID BRC SUEW RESPONDS TO LBR REQUEST TO FOLLOW NUTTER LANC.*
25. In relation to the flat roof form in Scheme 2 Blocks A and B, she accepted that the roof form did not have to be typical, just as bungalows were not typical of the Conservation Area. There are in fact a variety of roof forms and pitches in the Conservation Area, and variety can provide a refreshing contrast to the uniformity of pitched roofs she accepted in xx. In any event, she accepted that one should not single out one aspect of the design of a building without judging it in the context of the overall building style, to which it was appropriate. The style was consistent with the period encompassed by the Conservation Area's range of architecture. *WITHOUT GUIDANCE, FLAT ROOF CANNOT BE TAKEN AS UNACCEPTABLE*
26. As to scale, she had not considered the intervening factors of the distance including a road junction and a substantial tree in judging the relationship of the nearest bungalow to Block B in either Scheme 2 or 3.

27. In the light of these answers, it is difficult to understand what point of substance underpins the criticism that Scheme 2 Blocks B and C are “incoherent” and “incongruous” of appearance in the context of Nutter Lane and their proximity to the Roding Cottages.
28. Although Williams claimed there was no precedent for two sizeable freestanding houses in Nutter Lane, that is plainly incorrect both inside and outside the Conservation Area, even if it were a valid point which it is not. There is nothing to suggest that the character and appearance of the Conservation Area is based on individuality or lack of pairing, quite the opposite in fact.
29. As her evidence continued, Williams’ points become more and more insubstantial from external balconies without precedent to inset balconies, also without precedent, lack of detailing on Art Deco facades which are in fact intended to be austere in decoration in any event. From complex roof forms to mansard roof, not only approved by the planning officers on Block A but suggested by English Heritage’s officers who had no objection to the form of the roofs on any block. She agreed that the roof forms would tend to break down the bulk of the buildings.
30. Williams endorsed, in effect, the alternative design approach of both schemes either to create a contrast or to follow the architectural pattern of the older buildings, in this case Roding Cottages.
31. However the most glaring and inexcusable omission from the evidence of both Council witnesses was their failure to even acknowledge the participation and lack of objection

from English Heritage on either scheme. Similarly, notwithstanding the planning officers having taken account the C&UD officers' views in framing the reports to members, there was no attempt to engage with the painstaking appraisal of Scheme 2 in the July 2009 report of all relevant representations in the report to committee on that proposal (CH15) or the planning officers' lack of objection to the houses or Block A in either scheme. This shows a blinkered and frankly inexperienced attitude towards presenting evidence and represents an unfair and unbalanced, one sided appraisal of each scheme. Their evidence must be accorded much less weight as a result. The importance of these omissions is that it fails to take account of material considerations in formulating a critically informed view of the proposals and betrays a hidebound and inflexible adherence to previously adopted opinions. The integrity of those opinions is severely devalued as a result.

32. Even judged purely on their own merits as their own views, it is impossible to reconcile the evidence of Williams and Algar with the views of Bailey in negotiation with the Appellant who expressed himself completely satisfied with the design of Blocks B and C in Scheme 2 and the contrast to Roding Cottages (CH App 4). Furthermore, it is evident that the consultation replies by the C&UD team failed to have regard to the views of EH even though they were expressly and directly informed of EH's ultimate acceptance of Scheme 2 in principle and substance (EH email 4 June 09, referred to in CH App 12) and were aware of EH's lack of objection to Scheme 3 *EVEN MORE STRANGE GIVEN LBR & EH MET ON SITE.*

33. I do not set out at length submissions on each of the points made by Algar about the "significant" view of the rear of Roding Cottages' chimneys, 'bookends' formed by Applegarth and Roding Cottages, precedent, "historic spaciousness" cramped

appearance, the car park area and so forth. I merely refer you to his answers to xx on these points and Miele's rebuttal evidence on them on which I am content to rely to support the submission that none of them amount to reasons for refusing planning permission because of harm to the Conservation Area.

34. So far as his claim about the 'most rural element' of the Conservation Area is concerned, (which arose directly from the draft Character Appraisal p21, 30) he expressly accepted that all the elements of that rurality which he identified will remain after development of the appeal site for either Scheme 2 or 3, namely the particular houses, the open space of the recreation ground, the sinuous nature of Nutter Lane and trees on the appeal site, apart from those to whose loss the Council has raised no objection subject to replacement by suitable specimens. He accepted that the appeal site ought to be developed and did not object to development on the Nutter Lane frontage. The massing of Blocks B and C in Scheme 3 was expressly accepted by the C&UD team on the basis of Option 2 which reflected the final design (CH App 18). The massing of Blocks B and C in Scheme 2 is not identifiably different in nature. Algar could not identify any lesser height of B and C which would be more acceptable.

35. Having analysed the actual evidence marshalled on behalf of the Council, it is not only evident how little tangible evidence is presented concerning Block A or the houses in either scheme, but also that the objections in relation to Blocks B and C are based on a ragbag collection of incoherent and incongruous minor criticisms which do not amount to a considered critique of each scheme as a whole, let alone an indictment of the proposals. There is a failure to identify in what way the character and appearance of

the Conservation Area as a whole will be harmed by this collection of disparate comments.

36. Given the manifest differences between the form and layout of the appeals schemes and the Higgins development of Syon Court, 31 The Avenue, the Council's case has plainly failed to establish any meaningful comparison between each development in a way that would disparage either Scheme 2 or 3. The uniform set back on all three frontages of the appeal site and penetration of views into the site together with variation in the design appearance of each element of development and landscaping of the appeal site all contribute to a totally different outturn.
37. In coming to your judgment, Madam, you are assisted by the weight of informed evidence in favour of the development. First EH became actively involved in the consideration of Scheme 2 at the instigation of the CRA and plainly influenced the final design which was found acceptable by EH and the planning officers. EH raised no objection to Scheme 3 when consulted.

Secondly, on three separate occasions, two different Acting Heads of Development Control endorsed reports by planning officers in support of Scheme 2 at its various stages of evolution. This is important, because plainly the planning officers did not consider the impact upon the Conservation Area to be a finely balanced matter, nonetheless improvements continued to be made between March and July 2009.

Thirdly, reliance may be placed on the views of the Scheme 1 Inspector, as the Council asks you to do, save when it suits them to argue that the designation of the

Conservation Area overtakes his judgment. There is no evidence that the “character and appearance of the area” which he identified (DL para 6) has changed either in the immediate or wider surroundings since his decision. Indeed the designation has widened the context in which that judgment is to be made. He found the houses now in Scheme 2 acceptable and Scheme 3 represents an improvement upon that. He found no reason to object to 3 storey development in principle on the corner of Gloucester Road and Leicester Road subject to the orientation of the principal facade onto Leicester Road. His objections in respect of Block A in Nutter Lane have now been addressed with the endorsement of the planning officers and English Heritage.

Fourthly Dr Miele has brought his independent view to bear on both schemes and has provided rationalised justification for each proposal. + EVIDENCE OF MR WOOD

38. Although not expert, it is notable that the CRA is in favour of Scheme 3 in spite of the Council’s objection and the Wanstead Society’s residual objections are so insignificant as to represent no impediment to the grant of planning permission for Scheme 3. In particular, neither CRA or WS object to the appearance of any part of Scheme 3. Miele has responded fully in writing and orally to all WS’s criticisms.
39. On the other side, you have the views of the Conservation Advisory Panel, none of whose members, who considered either scheme, is known to hold any relevant expert qualification to make an informed judgment upon development in a Conservation Area. They did not take into account the views of EH in their opinion on either Scheme 2 or 3.

Secondly the C&UD team seems to speak with a forked tongue. In negotiation on Scheme 2, all their concerns seemed to have been addressed and were not pursued further. Yet their representations ignore that background and the views of EH and so they have been willing to give evidence in the absence of any planning officer or member making a case on behalf of the Council. Plainly it is simply impossible to satisfy them collectively. They have been represented by the relatively inexperienced Algar and Williams and that lack of experience and expertise was necessarily reflected in their evidence.

40. That concludes the roll call on either side save for the planning officers objection solely to Blocks B and C in Scheme 3 (SoCG App 12). However it is largely incomprehensible why the planning officers should have objected to these blocks having supported Scheme 2. That is not just the view of the Appellant, but also apparently of the CRA and WS.

41. Finally I should mention the authors of the draft Character Appraisal for the Conservation Studio. It is unclear how the contributors divided up responsibility for the preparation of the document which was never finalised, revised or adopted. The principal author seems to have been an archaeologist by training. The Council could have called upon them to provide an independent expert assessment of the appeal proposals but did not. One can, I think expect that any suitably qualified representative would have taken account of EH's view in forming a judgment. However that must remain in the realms of speculation.

42. It is also material to take into account the meticulous efforts made on behalf of the Appellant to engage with and take account of all shades of opinion within the Council's planning department as well as local residents and interested bodies together with EH. Woods evidence makes it clear how he took account of all the views expressed and where appropriate incorporated them in the many iterations of two design forms in respect of Schemes 2 and 3 whilst also delivering the Appellant's development aspiration for the site.
43. Although the Council's case has blown hot and cold as between asserting that the Appellant was trying to impose his solution on the community and alternatively that the Appellant and Woods did not have the strength of their conviction in putting forward some post-modern design for development of the site – e.g. a “dramatically contemporary” design which Miele could not have supported as appropriate to the Conservation Area – it is plain that the Appellant has merely sought to be accommodating in listening to and taking account of local views in putting forward alternative schemes, as Government encourages developers to do (PPS1 para 12). The Appellant's behaviour has in fact been a model of co-operation and consultation in formulating designs.
44. I cannot do justice to Dr Miele's evidence without rehearsing it again. Suffice to say that his comprehensive and independent exercise, whereby he thoroughly appraised the Conservation Area and carefully assessed both Schemes 2 and 3, is the most important evidence at this Inquiry whether in support of or opposition to either scheme. He has conducted a fair and informal examination of all the relevant aspects of the proposals and has provided detailed and reasoned justification for his conclusions as well as

trenchant analysis of all the Council's arguments in dismissing them as misconceived. It ought to be of the utmost assistance to you, Madam, in forming your own judgment to be able to rely upon the evidence of a witness with Miele's breadth of experience, knowledge and expertise. On that basis Miele's evidence commands the respect and weight which is due in contrast to the relatively lightweight evidence of the Council's witnesses.

45. What emerges from a review of the evidence on which these appeals must be determined is that, on the basis of either formulation of what you identified as the main issue, neither Scheme 2 or 3 is harmful to the Conservation Area and of course there are important positive reasons to grant planning permission as set out in Hicks' evidence (section 8 p24). None of those material considerations has been contested by the Council and therefore should be given due weight as having been accepted. Other matters agreed are set out in SoCG section 7.
46. When assessed against relevant development plan policy each proposal is consistent with the objectives of the criteria in Policy BD1, E3 and SP3 in respect of Scheme 3. Specifically there is no evidence which supports the contention that the height of Blocks B and C is in any way harmful either intrinsically or in relative terms alongside the locally listed building. Further the setting of that building is respected by the degree of separation afforded to it from Block C in each case.
47. As to the scale of the Blocks A, B and C which is not specifically identified as a cause for concern but which has been pursued through descriptions of "bigness" at the Inquiry, both Woods and Miele have been able to point out examples of houses and

flats in proximity to the appeal site which are at least as tall in storey height and/or as substantial in bulk and mass. Unlike Block A in Scheme 1, both Blocks B and C in Schemes 2 and 3 will not give rise to the “jarring contrast” identified by the Inspector in Scheme 1 (DL para 21) because of their relatively complementary scale in comparison with the block of the locally listed building. Scheme 1, in spite of protracted negotiations was never the subject of officer recommendation of approval to members unlike Scheme 2. MISS WILLIAMS ACCEPTED SCHEME 2+3 SOLVED MANY ISSUES INSPECTOR MADE WITH SCHEME 1

48. Miele has, as part of his review of the Schemes prepared his evidence in the light of PPS5 and finds that its objectives are met and relevant assets of the Conservation Area and locally listed building adequately respected.

49. So far as the changes in the newly reissued PPS3, the deletion of minimum density of 30 dph has no effect because the density of the scheme has been judged against the parameters of Policy BD3 and so is unaffected. So far as the removal of ‘private residential gardens’ from the definition of previously developed land is concerned, the house on this site has long since been demolished and these proposals seek to develop the whole of the vacant plot of land in an effective and efficient manner consistent with the prevailing objectives of PPS3. This site remains previously developed land (paras 40, 41). It has not been suggested by the Council that these changes have any material bearing on the case which has been presented on the basis of the Grounds of refusal in either appeal scheme.

50. For all these reasons, planning permission ought to be granted in respect of both appeals.

ANDREW KELLY QC

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